

REMARKS

Claims 11 and 13-17 are pending. Claim 11 has been amended. No new matter has been added.

Claims 11 and 13-15 are rejected under 35 USC 102(b) as being anticipated by Krohn, U.S. Patent 4,036,624. This rejection is respectfully traversed.

Claim 11 recites a dyeing device for dyeing a plastic lens comprising “a heating furnace comprising a frame section forming a space within the heating furnace and a cooling mechanism in a position corresponding to a portion of the lens within the space formed by the frame section; wherein the cooling mechanism is separated from the frame section” and “a lens-moving mechanism for vertically moving the lens-holding mechanism to insert all or a part of the lens from the insertion port into an interior portion of the heating furnace.”

First, Krohn does not teach dyeing a plastic lens. Krohn is actually directed to ophthalmic lens pressings made from glass, such as unnuclated photochromic glass (col. 5, lines 3-6).

Next, Krohn does not teach moving the lens-holding mechanism in the vertical direction because the frame section 10 is stationary and the furnace shell is only open on one side, thus only allowing for horizontal movement, at best. Thus, it would be impossible for Krohn’s lens holding mechanism to move in the vertical direction.

Further, Krohn actually fails to disclose or suggest that the lens moves at all. The lens 30 is actually supported by the brick of refractory 31. Krohn fails to teach that the brick of refractory is moved, nor does it appear from Fig. 1 that it is capable of being moved. The Examiner is not permitted to assume that the lens is moved without pointing to a specific disclosure in Krohn that teaches that the lens is moved. In addition, merely because Fig. 2 shows a graph which includes an axis labeled “distance from furnace front” does not mean the lens is moved in practice; rather this indicates where the lens was placed during the process. Krohn fails to teach that the lens

is moved using the claimed structure. Merely placing the lens in a different position depending on various factors to obtain certain measurements does not mean that the device is equipped with a lens moving mechanism.

Finally, Krohn fails to teach or suggest a heating furnace comprising a frame section forming a space within the heating furnace and a cooling mechanism in a position corresponding to a portion of the lens within the space formed by the frame section; wherein the cooling mechanism is separated from the frame section. Krohn teaches a frame section 10 where a lens 30 is supported on a brick of refractory 31 (col. 11, lines 23-24). Krohn teaches a series of refractory insulating bricks which provide a gradient. Krohn also discloses that the first brick 20 fits snugly against the outer or back surface of the arcuate furnace shell 12 (col. 10, lines 59-63). As can be seen in Fig. 1 of Krohn, the cooling mechanism is not separate from the frame section, but rather clearly rests on the top of the frame section. Thus, Krohn fails to teach or suggest this feature.

For at least these reasons, the features of claim 11 are not taught or suggested by Krohn. Claims 13-15 are allowable at least due to their respective dependencies. Applicants request that this rejection be withdrawn.

Claims 16 and 17 are rejected under 35 USC 103(a) as being unpatentable over Krohn in view of Kamata, U.S. Patent No. 6,520,999. This rejection is respectfully traversed.

As admitted by the Examiner, Krohn fails to teach or suggest a lens-moving mechanism to move the lens in a vertical direction. The Examiner asserts that this is taught by Kamata and that it would have been obvious to modify Krohn in view of Kamata to move the lens in vertical direction. Applicants respectfully disagree.

The Examiner's purported motivation to combine the reference is based on impermissible hindsight. Merely because Kamata may teach that the lens moves in a vertical direction is not sufficient motivation to one of ordinary skill in the art to have modified Krohn to provide structure to move the lens in a vertical direction. The Examiner has failed to cite specific

evidence of a motivation to modify Krohn in such a manner. Merely because such a modification would have had this result, i.e., that the lens would move in the vertical direction, provides no reason to do so and assumes in hindsight what the Examiner has to prove under the burden to show *prima facie* obviousness. Further, Krohn would need to totally redesign its device to accomplish this modification. The Examiner has failed to explain by reference to the evidence of record why it would have been desirous to modify Krohn to provide a lens moving mechanism which moves the lens in the vertical direction, and merely stating that the modification would result in the lens moving in a vertical direction is circular reasoning and insufficient to establish a *prima facie* case of obviousness. Thus, for at least these reasons, claim 16 is allowable.

With regard to claim 17, applicants submit that Krohn fails to teach that the lens is moved at all, and thus there would have been no motivation to combine Krohn with Kamata to obtain the claimed invention.

In light of the foregoing, applicants request that this rejection be withdrawn.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 279222001000.

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